

Gurvinder Singh Vs Govt. Of NCT Of Delhi Through Its Chief Secretary Delhi Sachivalaya, Players Building, I.P. Estate, New Delhi. & Ors.

Court: Central Administrative Tribunal Principal Bench, New Delhi

Date of Decision: Feb. 4, 2025

Acts Referred: Administrative Tribunals Act, 1985 " Section 19

Hon'ble Judges: Harvinder Kaur Oberoi, Member (J); Dr. Sumeet Jerath, Member (A)

Bench: Division Bench

Advocate: Ajesh Luthra, Sameer Sharma

Judgement

Sumeet Jerath, Member (A)

1. The instant OA has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985, seeking the following reliefs :-

8.a) Quash and set aside impugned order dated 06.02.2024 and impugned deficiency memo dated 24.06.2022 placed at Annexure A/1 and

A/2 respectively.

(b) direct the respondents to further consider and appoint the applicant to the post of TGT (Computer Science) (post code 91/20) forthwith

(c) accord all consequential benefits including monetary and seniority.

(d) award costs of the proceedings

(e) Any other relief which this Hon'ble Tribunal deems fit and proper in favour of the applicant

2. The conspectus of the case as per the counsel of the applicant is that pursuant to the advertisement published by the respondents to fill up various

posts of TGT (Computer Science) (Post Code 91/20), the applicant who belongs to UR/PH category applied for the same and successfully

participated in the selection process.

As per the learned counsel, the applicant scored 80.18 marks and was shortlisted and as desired he uploaded the requisite e-dossier also however, a

deficiency memo was issued to him on 24.06.2022 questioning his eligibility for want of requisite qualifications which were not as per the RRs. Though

the said deficiency memo was replied by the applicant on 11.07.2022; his candidature was cancelled vide letter dated 06.02.2024. According to the

learned counsel, the applicant completed his graduation (B.Sc) from Punjabi University Patiala in 2017 and during that period he studied Computer

Science as a main subject. Moreover, the Patiala University has certified that he has studied two theory subjects (3 hours/week + 3 hours/week) and

one practical subject (4 hours/week) of Computer Science in each semester. The University has further certified that he has studied Computer

Science as a main subject alongwith two other main subjects Statistics & Mathematics, in all the six semesters of his degree qualification.

3. Learned counsel of the applicant based his arguments on the following main grounds :-

“(i) In all the three years of graduation degree course, the applicant has studied Computer Science as a main subject. Thus, it is wrong on the part

of respondents to deny appointment to him in as much as the applicant is a graduate in Computer Science from a recognized University and has

studied Computer Science subject in all the three years as main subject.

(ii) It been the intention of the legislature that only specified graduation degrees of specified Universities are to be considered, in that case, the

nomenclature of graduation degree would have been specifically mentioned in the RRs/advertisement towards the clause: 'Graduation in Computer

Science from a recognized University (provided that the Computer Science subject must be studied in all years as main subject". A perusal of RRs

(mentioned in advt.) reveal that of the four alternate educational qualifications, specific nomenclatures of the required qualification is mentioned in

three clauses as (i) Bachelor in Computer Application (BCA), (ii) BE/B.Tech (Computer Science/Information Technology);

(iii) 'A' level Course of DOEACC from Ministry of Information Communication & Technology. Having mentioned the nomenclatures specifically in

the three alternate clauses, the rule making authority further incorporated a clause admitting any nomenclature of graduation degrees in Computer

Science as there are different nomenclatures of graduation degrees in Computer Science in different recognized Universities in the country. It is

pertinent to note that rule making authority did not specifically mention Course(s) having nomenclature like B.Sc. (Computer Science) or B.Sc.

(Information Technology) in the said 4th clause. Furthermore, it has been provided, under the said clause that Computer Science subject must be

studied in all years as main subject. The proviso clearly reveals that rule making authority did not intend to exclude all such graduation degrees which

may carry different nomenclature but are in the discipline/subject of Computer Science as a main subject or one of the main subjects.

(iv) Different Universities offer different combinations of subjects in a graduation degree course like:-

A. Physical Science

1. Physics, Chemistry and Mathematics

1. Physics, Mathematics and Computer Science

2. Physics, Mathematics and Electronics

3. Chemistry, Industrial Chemistry and Mathophysics

4. Chemistry, Analytical Chemistry and Mathophysics

5. Mathematics, Computer Science and Operational Research

6. Mathematics, Computer Science and Statistics

4. Learned counsel stated that the case of the applicant is covered by a recent decision of this Tribunal in OA No. 2421/2018 and batch in Yogesh

Sharma & Ors. vs. GNCTD & Or.s, wherein in an identical situation this Tribunal held that "In view of the above analysis, we allow all the

OAs. The respondents are directed to allow the applicants to join as TGT Computer Science post code 192/14 for which they have already

been offered the appointment, if otherwise found eligible, within a period of two months from the date of receipt of a certified copy of this

order.

5. Countering the arguments of learned counsel for the applicant, learned counsel for the respondents raised preliminary objections in his reply stating

that the expert committee observed that as the applicant has done graduation degree in B.Sc. (Mathematics Science) he does not fulfil Recruitment

Rules of TGT (Computer Science) which are as follows :-

Bachelor degree in Computer Application (BCA) from a recognized university.

Or

Graduation in Computer Science from a recognized university. (provided that the computer science subject must be studied in all years as

main subject).

Or

BE/B.Tech (Computer science/information technology) from a recognized university.

Graduation in any subject an 'A' level course from DOEACC ministry of Information Communication and Technology Govt. of India.

6. Learned counsel for the respondents relied upon certain rulings of the Hon'ble Apex Court which as enlisted below :-

"(i) In Zahoor Ahmad Rather and Ors. vs. Sheikh Intiaz Ahmad and Ors., Civil Appeal No. 11853-11854 of 2018, dated 05.12.2018,

the Hon'ble Supreme Court inter alia, held that Recruitment Rules carry a statutory force and cannot be compromised. The Apex Court

further held as follows :-

23. While prescribing the qualifications for a post, the State, as employer, may legitimately bear in mind several features including the

nature of the job, the aptitudes requisite for the efficient discharge of duties, the functionality of a qualification and the content of the

course of studies which leads up to the acquisition of a qualification. The state is entrusted with the authority to assess the needs of its

public services. Exigencies of administration, it is trite law, fall within the domain of administrative decision making. The state as a public

employer may well take into account social perspectives that require the creation of job opportunities across the societal structure. All these

are essentially matters of policy. Judicial review must tread warily.

(ii) In *Devender Bhaskar & Ors. v. State of Haryana and Ors.* Civil Appeal No.7031/2021 held, inter alia, as follows -

“18. It is also relevant to state here that Kurukshetra University itself has clarified that the diploma in Art and Craft started by it through

correspondence is not meant for appointment to the post of Arts and Crafts Teachers. In fact, Kurukshetra University has never claimed that

the aforementioned diploma is valid for appointment of Arts and Crafts Teachers. The Registrar of Kurukshetra University in a public notice

dated 27.09.2004 has clarified that this degree is meant for enabling the students to become self-employed. None of the documents

produced by the petitioners would indicate that the diploma in Art and Craft awarded by the Kurukshetra University is equivalent to the

two- year diploma in Art and Craft Examination conducted by the Haryana Industrial Training Department. In its letter dated 24.12.2004, at

Exhibit P-4, the Kurukshetra University has clearly stated that the University does not guarantee any specific job for any of the courses

including the diploma in Art and Craft.

19. The documents. Exhibit P-2 to P-4, do not claim that the course in question has been recognized as equivalent to two-year Diploma in

Art and Craft examination conducted by the Haryana Industrial Training Department or an equivalent qualification recognized by the

Haryana Education Department.

20. We have already noticed that one of the eligibility criteria for appointment to the post of Arts and Crafts teacher as per the

advertisement dated 20.07.2006 is a "two-year Diploma in Art and Craft examination conducted by the Haryana Industrial Training

Department or an equivalent qualification recognized by the Haryana Education Department." It was made clear by the Industrial Training

and Vocational Educational Department, Haryana, that diploma in Art and Craft Course by the Kurukshetra University is conducted

through distance education and that this course cannot be equated with two-year diploma in Art and Craft Course awarded by the Haryana

Industrial Training Department Recognition of the said Course by the State of Haryana, as held by the High Court, is entirely different from

its equivalence. When the experts in the Education Department have held the diploma in Art and Craft by the Kurukshetra University is not

equivalent to the two-year diploma in Art and Craft awarded by the Haryana Industrial Training Department, we are of the view that the

High Court was not justified in equalizing them.

26. Having regard to the above, in our view, the High Court has erred in holding that the diploma/degree in Art and Craft given by the

Kurukshetra University is equivalent to two-year Diploma in Art and Craft examination conducted by the Haryana Industrial Training

Department or diploma in Art and Craft conducted by Director, Industrial Training and Vocational Education. Haryana.

27. Resultantly, the appeal succeeds and it is accordingly allowed. Consequently, the Judgment and Order of the High Court in C.W.P.

No.20630 of 2006 and connected matters, impugned herein, are set aside and the petitions are dismissed. Pending applications, if any, shall

stand disposed of. There shall be no order as to costs.

(iii) In *Guru Nanak Dev University v. Sanjay Kumar Katwa*, (2009) 1 SCC 610 the Hon'ble Supreme Court has reiterated that

“Equivalence is a technical academic matter. It cannot be implied or assumed. Any decision of the academic body of the university relating

to equivalence should be by a specific order or resolution. duly published. Dealing specifically with whether a distance education course

was equivalent to the degree of MA (English) of the appellant university therein, the Court held that no material had been produced before

it to show that the distance education course had been recognized as such.”

(iv) In *Jaiveer Singh vs. The State Of Uttarakhand*, dated 28.11.2023 the Hon'ble Apex Court held, inter alia, that “Equivalence of

qualification is a matter for the State. as recruiting authority, to determine. Further, it was held that:

41. In view of what has been held by this Court hereinabove, we find that the High Court erred in holding that 18 months Diploma

conducted by NIOS through ODL mode is equivalent to the 2 years regular Diploma, particularly so, when there was no material placed on

record to even remotely hold that such a qualification was recommended by the Expert Body NCTE.

On the contrary, the communication dated 6th September 2019 of NCTE, the directives of MHRD so also the recognition order dated 22nd

September 2017 clearly go on to show that the 18 months Diploma was provided as a one time window to the in-service teachers to acquire

the minimum qualifications between the 2017 Amendment Act and the outer limit of 1st April 2019. In our considered view, the High Court

has totally erred in holding that the 2 years Diploma is equivalent to 18 months Diploma.

(v) In Govt. of NCT of Delhi vs. Arun Singh Bhatt, i W.P (C) No. 1358/2024 dated 21.11.2024, the Hon'ble High Court held, inter alia,

as under :-

26. In view of the judgment of the Supreme Court cited supra, it is clear that the Tribunal was not within its competence to declare the

qualifications held by the respondent to be equivalent to the prescribed qualification as per the advertisement. It is not in dispute that the

W.P. (C) 1358/2024 respondent does not possess any of the essential qualifications mentioned in the advertisement. There is no provision in

the advertisement for treating, as qualified, a candidate having any equivalent qualification. Moreover, we find that the Tribunal had, in

fact, framed the very issue which arose before it for consideration erroneously in para 51 of the impugned judgment.

27. For the aforesaid reasons, we are unable to sustain the judgment of the Tribunal. The impugned order is accordingly quashed and set

aside. The OA filed by the respondent before the Tribunal stands dismissed.

28. The writ petition is allowed accordingly.

7. Heard the learned counsel of both the sides ; examined the documents on record and perused the relevant judgments. We have observed that Mr.

Gurvinder Singh has done his graduation degree B.Sc (Computer Science, Statistics, and Mathematics) from Punjabi University, Patiala during session

2014 to 2017. He has a certificate from the Head, Department of Statistics, Punjabi University, Patiala No.5194/Stat-22 dated 08.07.2022 that he has

studied two theory subjects. For the sake of clarity, the same is reproduced below :-

“TO WHOM IT MAY CONCERN

It is certified that Mr. Gurvinder Singh S/o Shingara Singh has done his graduation degree B.Sc.(Computer Science, Statistics &

Mathematics) under Roll Number 354 and Registration No PU(P)2014-1202 from Department of Statistics, Punjabi University Patiala

during session 2014 to 2017. It is further certified that he has studied two theory subjects (3 hours/week + 3 hours/week) and one practical

subject (4 hour/ week) of Computer Science (Total 10 hours/week) in each semester. He has studied Computer Science as main subject

along with two other main subjects Statistics and Mathematics in all the six semesters of the aforementioned degree.

8. We have also gone through his mark sheets in all the 6 semesters during the three year course and taken note that he has studied the following

subjects semester wise :-

(i) Introduction to Information Technology and Computer Programming using C (in theory) and Software Lab-1 (practical) in Semester-I;

(ii) Object Oriented Programming using C++, Management Information System (in theory) and Software Lab-II (Programming in C++ (Practical) in

Semester II;

(iii) Data Structure and Data Base Management System (in theory) and Software Lab-III (in practical) in Semester III ;

(iv) Operating Systems, ASP. NET (in theory) and Software Lab-IV (in practical) in Semester IV ;

(v) Computer Networks and Data Communication and Visual Programming (in theory) and Software Lab-V (Practical based on Visual Programming)

(in practical) in Semester V and

(vi) In Semester VI, he studied Oracle and Software Engineering (in theory) and Software Lab-VI (Practical based on Oracle) (in practical).

We are thus satisfied that he has studied computer science subjects in all the six semesters. He thus fully meets the essential educational qualification

criterion mentioned in the Advertisement No. 04/20 of DSSSB dated 04.01.2020 for the post of TGT (Computer Science) (Post Code-91/20) i.e.,

“Graduation in Computer Science from a recognised University (provided that the Computer Science subject must be studied in all years as main

subject)”. In the light of the above, we would like to follow the decision of Coordinate Bench of this Tribunal in OA No. 2421/2018 dated

10.08.2020 where similarly placed applicants were allowed to join as TGT (Computer Science) Post Code 192/14.

9. We accordingly quash and set aside the impugned cancellation Order No. DE. 4(44)/DRC(E-IV)/Pt. File/TGT(CS)/(91/20)/2022/166-170 dated

06.02.2024 as well as the Deficiency Memo No. F.DE.4(33)/DRC/E-IV/TGT(CS)/(91/20)/2022/3562 dated 24.06.2022 and direct the respondents to

consider appointment of the applicant as he is meritorious having scored 80.18 marks and has been shortlisted already ; and if otherwise found fit to

offer him the post of TGT (Computer Science) Post Code No. 91/20 within a period of two months from the date of receipt of a certified copy of this

order. It is needless to mention that the applicant would be entitled for all the notional benefits like fixation of pay and allowances and seniority.

However, there will be no payment of any arrears of pay and allowances on the principle of “No work no pay”.

There shall be no order as to costs.